

2014 Dangerous Waste Rule Amendments Summary of Draft Changes

This document provides a concise, topical summary of proposed significant draft changes to Chapter 173-303 WAC. Also, **all** of the draft changes are listed in the companion document entitled *Draft Amendments to the Dangerous Waste Regulations Chapter 173-303 WAC*. Track changes to Chapter 173-303 WAC are given in a third document. All three documents together should give a clear understanding of the proposed draft changes.

Title and Citations	Description
Oil Refinery Recycling –Gasification Option <ul style="list-style-type: none"> ➤ 071(3)(cc)(i) ➤ 040 (definition of gasification) 	<p>This rule modifies an existing exclusion for oil refinery dangerous waste recycled back into the petroleum refining process. Gasification systems are added as an allowable recycling process for specific oil refinery wastes.</p>
Academic Laboratory Alternative Generator Standards <ul style="list-style-type: none"> ➤ 070(7)(c)(vi) ➤ 070(7)(c)(vii) ➤ 170(7) ➤ 170(7)(a) and (b) ➤ 235 	<p>The rule provides an alternative set of generator regulations for wastes generated within lab settings at colleges, universities, and affiliated teaching hospitals and research institutes. Accredited photography and art schools are also eligible. The rule provides easier waste management in eligible school labs. It also allows a yearly clean-out of lab chemicals without counting these wastes towards generator status.</p>
Import/Export regulations – Export shipments of Spent Lead-acid Batteries <ul style="list-style-type: none"> ➤ 170(6) ➤ 230(1) ➤ 240(11) ➤ 290(1)(b) ➤ 370(3) ➤ 370(7) ➤ 520(1)(a) and (b) 	<p>These amendments:</p> <ul style="list-style-type: none"> • Implement changes to the agreements concerning the transboundary movement of hazardous waste among countries belonging to the Organization for Economic Cooperation and Development (OECD), • Establish notice and consent requirements for spent lead-acid batteries intended for reclamation in a foreign country, • Specify that all exception reports concerning hazardous waste exports be sent to a new EPA office in Washington, DC, and • Require U.S. receiving facilities to match EPA provided import consent documentation to incoming hazardous waste import shipments and to submit to EPA a copy of the matched import consent documentation and RCRA hazardous waste manifest for each import shipment.
Hazardous Waste Technical Corrections and Clarifications Rule <ul style="list-style-type: none"> ➤ 040 ➤ 016(5) (table 1) ➤ 070(8)(a)(iii) ➤ 090(7)(a)(viii) ➤ 120(3) ➤ 120(3)(d) ➤ 140(4)(b)(iv) ➤ 180(3)(f) ➤ 200(1)(f) ➤ 200(1)(g) ➤ 200(2)(a) ➤ 200(2)(b) ➤ 200(3)(c) ➤ 220(2)(e) and Note ➤ 230(2) ➤ 350(2) ➤ 370(5)(e)(vi) ➤ 370(5)(f)(i) ➤ 370(5)(f)(vii) ➤ 370(5)(f)(viii) ➤ 505(1)(b)(i) ➤ 810(8)(b) ➤ 9903 (U239) ➤ 9904 (F037) ➤ 9904 (K107) 	<p>EPA has corrected or clarified several parts of the hazardous waste regulations that relate to:</p> <ul style="list-style-type: none"> • Hazardous waste identification. Section 090(7)(a)(viii) is updated to current DOT regulatory citations and terminology for explosives. • Manifesting (these changes are detailed under the “Manifest Rule Changes” entry), • The hazardous waste generator requirements. Section 200(1)(g) is moved to a new 200(1)(f) to clarify the applicability of generator closure requirements for containers, tanks and drip pads. In the satellite accumulation rules (sections 200(2) and (3)) acutely hazardous wastes (AHW) are tied to their definition in 040 to clearly identify the type of waste subject to these rules. • Standards for owners and operators of hazardous waste treatment, storage and disposal facilities. • Standards for the management of specific types of hazardous waste and specific types of hazardous waste management facilities. A new paragraph is added in section 810(8)(b) to note that permits may be modified, revoked and reissued, or terminated under certain conditions. • The land disposal restrictions program. Section 120(3) is revised to clarify that certain recyclable materials are subject to the land disposal restrictions (LDR) requirements in section 140, including LDR paperwork. In addition, section 505(1)(b)(i) is revised to remind recyclers that they must prepare a one-time LDR notification for waste-derived products. • Numerous other typographical errors, incorrect or outdated citations and omissions. <p>We are not adopting many of these changes to the federal regulations because they do not apply to Washington state, we already made the corrections or we never adopted the rule that EPA is correcting.</p>

Title and Citations	Description
Land disposal Restrictions: Revision of the Treatment Standards for Carbamate Waste Constituents <ul style="list-style-type: none"> ➤ Incorporated by reference at 140(2)(a) 	EPA is revising the LDR treatment standards for hazardous waste from the production of carbamates and carbamate commercial chemical products. This rule provides as an alternative to the numeric based standards the use of technology based treatment standards for treating these wastes. Carbamate Regulated Constituents have been removed from the table of Universal Treatment Standards.
Removal of Saccharin as Listed Dangerous Waste <ul style="list-style-type: none"> ➤ 9903 ➤ 9905 	Saccharin and it's salts are removed from the list of commercial chemical products and from the list of dangerous waste constituents. EPA reviewed relevant data on saccharin and determined that it doesn't meet the criteria in the hazardous waste regulations for remaining on EPA's lists of hazardous constituents, hazardous wastes, and hazardous substances.
Manifest Rule Changes <ul style="list-style-type: none"> ➤ 180(3)(c) ➤ 180(3)(f) ➤ 180(6) ➤ 180(7)(a) ➤ 220(2)(e) ➤ 370(5)(e)(vi) ➤ 370(5)(f)(i) ➤ 370(5)(f)(viii) 	Several changes are made to manifest rules, including: <ul style="list-style-type: none"> • 180(3)(c) is deleted because it is redundant to and repeats 180(1)(c). • 180(3)(f) gives generator manifest requirements for loads that have been rejected by the TSD and returned to the generator. • 180(6) corrects manifest instructions. • 180(7)(a) incorporates by reference 40 CFR 262.21, which contains the manifest printing specifications. A new EPA rule allows flexibility in how the copy distribution notations are printed. • 220(2)(e) has exception reports requirements for waste shipments rejected from the TSD and forwarded on to an alternate facility. • 370(5)(e)(vi) has manifest instructions for shipments rejected by the TSD and sent to an alternate facility. • 370(5)(f)(i) corrects manifest form instructions for loads rejected by the TSD and sent back to the generator. • 370(5)(f)(viii) is a reminder that TSDs who reject loads and ship back to the generator must comply with the exception report rule in 220(2).
Exclusion for Recycled Fuel/Water Mixtures <ul style="list-style-type: none"> ➤ 071(3)(rr) ➤ 040 	Fuel Storage tank terminal operators generate large amounts of water contaminated gasoline (know as draw water) that is removed during maintenance operations. This exclusion is for draw waters generated at petroleum fuel product storage tanks which are reclaimed. Draw water is defined in section 040.
Special Waste Rule <ul style="list-style-type: none"> ➤ 073(1) ➤ 073(2)(e) ➤ 073(2)(f) 	<ul style="list-style-type: none"> • 073(1) – an applicability statement ties this section to the definition in 040. • 073(2)(e) - imposes a 30 day time limit for special waste held at transfer stations. • 073(2)(f) - clarifies that special wastes may also be considered hazardous materials and must be shipped according to DOT regulations.
National Environmental Performance Track Program <ul style="list-style-type: none"> ➤ 200(5) ➤ 040 	The National Environmental Performance Track Program (NEPT) was terminated by EPA on May 19, 2009, with no stated intent of restoring it. EPA has not yet removed the NEPT regulations from RCRA. This revision removes the NEPT rules from our dangerous waste regulations.
Facilities Allowed to Accept Dangerous Waste <ul style="list-style-type: none"> ➤ 170(3) ➤ 370(1) ➤ 600(2) 	Three rule changes help define what types of facilities can accept dangerous waste (DW): <ul style="list-style-type: none"> • 170(3) is modified to clarify that the TSD facility requirements are the final facility standards found in section 600, which include by reference sections 280-395. • 370(1) clarifies that the phrase "owners and operators" applies specifically to owners and operators of permitted TSD and DW recycling facilities. • 600(2) clarifies that only facilities with a DW permit, DW recycling facilities or exempted facilities can accept DW from off-site sources.
Facility Record Keeping - Operating Record <ul style="list-style-type: none"> ➤ 380(1)(r) 	Certificates of major tank system repair (as required by 640(7)(f)) now must be retained in the operating record.

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Independent Qualified Registered Professional Engineer <ul style="list-style-type: none"> ➤ 200(1)(b)(iv) ➤ 200(4)(a)(iv)(III) ➤ 335(1)(a) ➤ 400(3)(c)(xxii)(B) ➤ 64690 ➤ 650(4)(c) ➤ 650(5)(d)(ii)(B) ➤ 660(6)(e)(ii) ➤ 665(2)(a)(i) ➤ 806(4)(a) ➤ 806(4)(d)(v) twice ➤ 806(4)(e)(iii)(A)(I) ➤ 806(4)(h)(ii)(A)(I) ➤ 810(14)(a)(i) 	<p>Add the requirement that facilities use an “independent qualified registered professional engineer” instead of a “qualified Professional Engineer” for certifications. This change maintains consistency with other dangerous waste regulatory citations which require use of an independent qualified registered professional engineer for certifications and other documentation.</p>														
Enforceable Documents Used in Lieu of a Post Closure Permit <ul style="list-style-type: none"> ➤ 400(3)(c)(ii)(G) ➤ 645(1)(e) ➤ 800(2) ➤ 800(12) ➤ 806(4)(a) ➤ 806(4)(o) 	<p>This federal rule allows use of enforceable documents (e.g. consent decrees and agreed orders) in lieu of RCRA post-closure permits. This rule uses Model Toxics Control Act authorities at corrective action post closure sites, instead of using RCRA post-closure permits.</p>														
Financial Assurance Requirements Citations are in description	<p>Several changes are made to facility requirements for financial assurance:</p> <table border="1" data-bbox="516 926 1398 1801"> <tr> <td data-bbox="516 926 724 1024">620(3)(a)(ii) 620(6)(a) 620(9)(a)</td><td data-bbox="724 926 1398 1024">Revise wording to be gender neutral.</td></tr> <tr> <td data-bbox="516 1024 724 1123">620(3)(a)(ii) 620(5)(a)</td><td data-bbox="724 1024 1398 1123">Revise to ensure that cost estimates for financial assurance are done by a third party, and not by a related corporate entity.</td></tr> <tr> <td data-bbox="516 1123 724 1255">620(3)(a)(v) 620(4)(g) 620(6)(c)</td><td data-bbox="724 1123 1398 1255">Revise to clarify that cost estimates for closure and post-closure financial assurance must be in current dollars, and net present value adjustments are not allowed.</td></tr> <tr> <td data-bbox="516 1255 724 1354">620(4)(a)(vi) 620(6)(a)(vi)</td><td data-bbox="724 1255 1398 1354">Revise to clarify that the financial test and the corporate guarantee are two separate but related options.</td></tr> <tr> <td data-bbox="516 1354 724 1486">620(4)(d)(iv) 620(6)(a)(vi) 620(8)(a)(iv)</td><td data-bbox="724 1354 1398 1486">Raise the minimum tangible net worth requirement from \$20 million to \$25 million to qualify for use of the financial test or corporate guarantee option.</td></tr> <tr> <td data-bbox="516 1486 724 1696">620(4)(d)(v)</td><td data-bbox="724 1486 1398 1696">Add a rule allowing facility owners/operators requesting the use of the financial test or corporate guarantee to submit an “Agreed Upon Procedures” report in place of a “negative assurance” report as required in federal regulations.</td></tr> <tr> <td data-bbox="516 1696 724 1801">620(8)(a)(i)</td><td data-bbox="724 1696 1398 1801">Update the minimum financial assurance amounts for liability coverage.</td></tr> </table>	620(3)(a)(ii) 620(6)(a) 620(9)(a)	Revise wording to be gender neutral.	620(3)(a)(ii) 620(5)(a)	Revise to ensure that cost estimates for financial assurance are done by a third party, and not by a related corporate entity.	620(3)(a)(v) 620(4)(g) 620(6)(c)	Revise to clarify that cost estimates for closure and post-closure financial assurance must be in current dollars, and net present value adjustments are not allowed.	620(4)(a)(vi) 620(6)(a)(vi)	Revise to clarify that the financial test and the corporate guarantee are two separate but related options.	620(4)(d)(iv) 620(6)(a)(vi) 620(8)(a)(iv)	Raise the minimum tangible net worth requirement from \$20 million to \$25 million to qualify for use of the financial test or corporate guarantee option.	620(4)(d)(v)	Add a rule allowing facility owners/operators requesting the use of the financial test or corporate guarantee to submit an “Agreed Upon Procedures” report in place of a “negative assurance” report as required in federal regulations.	620(8)(a)(i)	Update the minimum financial assurance amounts for liability coverage.
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Financial Assurance at Corrective Action Sites <ul style="list-style-type: none"> ➤ 620(11) ➤ 64620(5) 	<p>This rule codifies requirements for financial assurance at corrective action sites. Currently there are no federal or state financial assurance rules for corrective action sites. This rule codifies existing EPA guidance and current Ecology practice as it is used in Agreed Orders and Consent Decrees.</p>														

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Electronic Document Submittal <ul style="list-style-type: none"> ➤ 140(4)(d)(iii) ➤ 335(4) ➤ 400(3)(c)(vi)(B) ➤ 610(6) ➤ 610(11) ➤ 810(14)(a)(i) ➤ 830(4)(a)(i)(A) 	<p>Consistent with state law, these citations are revised to give facilities the ability to submit certifications to ecology via electronic format, such as email or fax.</p>
Removal of “Response to requests for public records” Rule <ul style="list-style-type: none"> ➤ 905 	<p>This dangerous waste regulation is in conflict with the Washington state Public Records Act (PRA). The PRA says that state agencies must provide a response within 5 days, but do not require state agencies to furnish public records within a specified time frame. Section 905 could be interpreted to require Ecology to provide requesters with dangerous waste records within 20 working days. A reason no longer exists for keeping this section.</p>
Permit Modifications Table <ul style="list-style-type: none"> ➤ 830 Appendix I 	<p>A new entry <i>O “Burden Reduction”</i> is added to the permit modifications table in Appendix I. These class 1 permit modifications are for:</p> <ul style="list-style-type: none"> • Use of a single contingency plan • Changes to detection and compliance monitoring programs
Agency Public Notice Requirements for Permits <ul style="list-style-type: none"> ➤ 840(3)(e)(i) ➤ 840(4)(c) 	<p>These rules for public notice of permit activities are revised to allow Ecology the option of sending documents to stakeholders electronically.</p>
Chemical Test Methods Publication 97-407	<p>Update sections dealing with testing for halogenated organic compounds (HOC). Chapter 3.8 <i>Test Methods for Determining Halogenated Organic Compounds</i> will be revised. Specifically, sections 3.8.3, 3.8.4, 3.8.5 and 3.8.6 will be revised to clarify appropriate test methods to be used to designate HOCs.</p>
“P” and “U” listed wastes <ul style="list-style-type: none"> ➤ 9903 	<p>Waste codes, CAS numbers and chemical names are corrected.</p>